



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 10 Ordinance/Resolution# 17-050

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of September 19, 2016
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT VARIOUS GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS; TO RATIFY THE CITY MANAGER'S OR MAYOR'S SIGNATURE ON THE CONTRACT AGREEMENTS; AND TO AMEND THE CITY'S ADOPTED FY2017 BUDGET AND, AS APPLICABLE, THE FY2017 CAPITAL IMPROVEMENT PLAN (CIP).

PURPOSE(S) OF ACTION:

To accept grant agreements and adjust the City budget and CIP, as applicable.

COUNCIL DISTRICT: ALL		
<u>Drafter/Staff Contact:</u> Amy Johnson Bassford	<u>Department/Section:</u> Finance/Grants	<u>Phone:</u> 575-541-2281
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City relies on grant funding for many of the critical programs provided each year for the residents of Las Cruces. Grant funding awards are received throughout the fiscal year and are not budgeted during the normal fiscal year budgeting process. Funds are not budgeted until the City has received a grant award agreement due to the unpredictable nature of funding levels and timing. Also, it is necessary for City Council to accept the funds as well as the conditions that are associated with the grant funding.

The Grants staff works with City department personnel to process the grant agreements when provided notice by the granting agency and to ensure the departments are able to meet the conditions of the grant award. The nature of grant funding agreements is similar in most cases; therefore, the grant agreements listed in Exhibit "A" of this proposed resolution can be accepted together.

The request for City Council is to: 1) accept all the grant agreements listed in Exhibit "A"; and 2) amend the budget showing receipt of these new funds for the current fiscal year (FY2017). Additionally, the City is required to maintain a CIP that lists all capital improvement projects that City Council has authorized on the City's behalf. This action will, therefore, also approve the

(Continue on additional sheets as required)

addition of any of the grant agreements which involve capital improvements to the current FY2017 CIP, as necessary. Once accepted these funds will be used by the departments listed in Exhibit "A" for the scope of work as defined by each grant agreement.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Listing of Grant Agreements to be accepted.
3. Exhibit "B", Budget Adjustment.
4. Exhibit "C", Grants Agreement.

SOURCE OF FUNDING:

Is this action already budgeted?	Yes	<input type="checkbox"/>	See fund summary below
	No	<input checked="" type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from:
		<input checked="" type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue? See Exhibit "B"	Yes	<input checked="" type="checkbox"/>	Funds will be deposited into this fund: <u>Various</u> in the amount of <u>Various</u> for <u>FY2017</u> .
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

Refer to Exhibit "B", Grant Agreement Budget Adjustments.

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
Various	Various	Various	Various*	Various	Various

* Pending approved budget adjustment.

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the resolution to accept all of the grant agreements presented and adjust the City's FY2017 budget and FY2017 CIP, as applicable.

(Continue on additional sheets as required)

2. Vote "No"; this will not approve the resolution to accept any of the grant agreements presented and return the funds to the granting agency.
3. Vote to "Amend"; City Council may choose to remove one or more grants from this resolution and give direction on how to proceed to staff on those items while approving the other grants presented. Amending the resolution will delay the process of spending the grant funds within the predetermined grant schedule.
4. Vote to "Table"; this will impact the implementation of the grant agreements, the City department's ability to utilize the funds and return the grant funds will be returned to the granting agency.

REFERENCE INFORMATION:

N/A



City of Las Cruces®

PEOPLE HELPING PEOPLE

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of September 19, 2016
 (Adoption Date)

TITLE: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT VARIOUS GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS; TO RATIFY THE CITY MANAGER'S OR MAYOR'S SIGNATURE ON THE CONTRACT AGREEMENTS; AND TO AMEND THE CITY'S ADOPTED FY2017 BUDGET AND, AS APPLICABLE, THE FY2017 CAPITAL IMPROVEMENT PLAN (CIP).

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>[Signature]</i>	X 2281	8/18/16
Department Director	<i>[Signature]</i>	x2080	8/18/16
Other			
Assistant City Manager /CAO	<i>[Signature]</i>	X-2078	8/19/2016
Management & Budget Manager	<i>[Signature]</i>	X 2022	8/19/16
Assistant City Manager/COO	<i>[Signature]</i>	X 2271	8/24/16
City Attorney	<i>[Signature]</i>	EXT 2128	26 AUG 2016
City Clerk	<i>[Signature]</i>	X 2115	9-9-16

RESOLUTION NO. 17-050

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT VARIOUS GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS; TO RATIFY THE CITY MANAGER'S OR MAYOR'S SIGNATURE ON THE CONTRACT AGREEMENTS; AND TO AMEND THE CITY'S ADOPTED FY2017 BUDGET AND, AS APPLICABLE, THE FY2017 CAPITAL IMPROVEMENT PLAN (CIP).

The City Council is informed that:

WHEREAS, the City has received notice of grant awards for various City departments; and

WHEREAS, these grants will be used as designated in the scope of work and within the specified time period as shown in the attached grant agreements.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the City hereby accepts all the grant agreements as shown in the Grant Acceptance Summary, Exhibit "A", attached hereto and made part of this resolution.

(II)

THAT the City Manager's or Mayor's signature, as required by the granting agency, is hereby ratified on the attached grant agreements, as shown in Exhibit "C", attached hereto and made a part of this resolution.

(III)

THAT the FY2017 adopted budget is hereby amended, as shown in Exhibit "B", attached hereto and made part of this resolution.

(IV)

THAT the City staff is hereby authorized to do all deeds necessary in the

accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 20_____.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by _____

Seconded by _____

APPROVED AS TO FORM:



City Attorney

VOTE:

Mayor Miyagishima:	_____
Councillor Gandara:	_____
Councillor Smith:	_____
Councillor Pedroza:	_____
Councillor Eakman:	_____
Councillor Sorg:	_____
Councillor Levatino:	_____

GRANT ACCEPTANCE SUMMARY

Exhibit #: C

Grant Title: FY17 Airport Maintenance Grant

Department: Transportation -- Airport

Grant/Agreement #: LRU-17-01

Grant Type: Federal Operating

Granting Agency: NM Department of Transportation - Aviation Division (NMDOT-AD)

Grant Amount: \$ 9,998.00

Cash Match Amount: \$ 1,111.00

Total Grant Project Amount: \$ 11,109.00

In-Kind Match Amount: \$ 0.00

Grant Start Date:

Grant End Date: 06/30/2017

Grant Agreement Signer Authority: *City Manager* *Mayor*

CIP Project Amendment Needed: *Yes* *No*

Use of Funds Description:

The annual Airport Maintenance Grant provides for the purchase of consumable airfield maintenance supplies such as windsocks, light bulbs and lenses, sign panels, asphalt patching supplies, and herbicide. It will also assist with the costs associated with quarterly Automated Weather Observation Station (AWOS) inspections for the weather system and data links.

173
CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2016-17

Exhibit "B"

	2010 AIRPORT OPERATIONS			
	2016-17			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 35,585	35,585	0	35,585
Revenues				
Municipal Gross Receipts Tax	0	0	0	0
Public Safety Gross Receipts Tax	0	0	0	0
Hold Harmless Replacement GRT	0	0	0	0
State-Shared Gross Receipts Tax	0	0	0	0
Environmental Gross Receipts Tax	0	0	0	0
County Environmental Gross Receipts Tax	0	0	0	0
Gasoline Tax	0	0	0	0
Cigarette Tax	0	0	0	0
Lodgers Tax	0	0	0	0
Property Taxes	0	0	0	0
Payment In Lieu of Property Tax	0	0	0	0
Franchise Fees	0	0	0	0
Payment In Lieu of Franchise Fees	0	0	0	0
Licenses, Fees & Permits	0	0	0	0
Convention Center Fee	0	0	0	0
Auto License - State Shared	0	0	0	0
Fines & Forfeitures	0	0	0	0
Charges For Services	49,645	49,645	0	49,645
Natural Gas Sales - Commodity	0	0	0	0
Motor Pool Maintenances Charges	0	0	0	0
Fuel Charges	0	0	0	0
Intergovernmental	0	0	0	0
Investment Income	0	0	0	0
Miscellaneous Revenues	142,754	142,754	0	142,754
Federal Grants	0	0	0	0
State Grants	0	0	0	0
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Operating Transfers In	325,000	325,000	0	325,000
Total Revenues	517,399	517,399	0	517,399
TOTAL RESOURCES	\$ 552,984	552,984	0	552,984
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Operations	0	0	0	0
Transportation	528,598	528,598	1,111	529,709
Parks & Recreation	0	0	0	0
Community Development	0	0	0	0
Community & Cultural Services	0	0	0	0
Public Works	0	0	0	0
Legislative Reserve	0	0	0	0
Operating Transfers Out	20,000	20,000	0	20,000
Total Expenditures	\$ 548,598	548,598	1,111	549,709
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 4,386	4,386	(1,111)	3,275

174
CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2016-17

Exhibit "B"

	4100 CAPITAL PROJECTS REIMB GRANTS			
	2016-17			
	Original Budget	Amended Budget	Req. Adjustment	Adjusted Budget
RESOURCES				
Beginning Balance	\$ 279,052	279,052	0	279,052
Revenues				
Municipal Gross Receipts Tax	0	0	0	0
Public Safety Gross Receipts Tax	0	0	0	0
Hold Harmless Replacement GRT	0	0	0	0
State-Shared Gross Receipts Tax	0	0	0	0
Environmental Gross Receipts Tax	0	0	0	0
County Environmental Gross Receipts Tax	0	0	0	0
Gasoline Tax	0	0	0	0
Cigarette Tax	0	0	0	0
Lodgers Tax	0	0	0	0
Property Taxes	0	0	0	0
Payment In Lieu of Property Tax	0	0	0	0
Franchise Fees	0	0	0	0
Payment In Lieu of Franchise Fees	0	0	0	0
Licenses, Fees & Permits	0	0	0	0
Convention Center Fee	0	0	0	0
Auto License - State Shared	0	0	0	0
Fines & Forfeitures	0	0	0	0
Charges For Services	0	0	0	0
Natural Gas Sales - Commodity	0	0	0	0
Motor Pool Maintenances Charges	0	0	0	0
Fuel Charges	0	0	0	0
Intergovernmental	0	0	0	0
Investment Income	0	0	0	0
Miscellaneous Revenues	0	0	0	0
Federal Grants	143,300	143,300	0	143,300
State Grants	3,793,473	3,793,473	9,998	3,803,471
Local Grants	0	0	0	0
Debt Service	0	0	0	0
Operating Transfers In	0	0	0	0
Total Revenues	3,936,773	3,936,773	9,998	3,946,771
TOTAL RESOURCES	\$ 4,215,825	4,215,825	9,998	4,225,823
Expenditures				
General Government	0	0	0	0
Legislative	0	0	0	0
Municipal Court	0	0	0	0
City Manager	0	0	0	0
Legal	0	0	0	0
Las Cruces Police Department	0	0	0	0
Las Cruces Fire Department	0	0	0	0
Utilities	0	0	0	0
Administrative	0	0	0	0
Human Resources	0	0	0	0
Financial Services	0	0	0	0
Information Technology	0	0	0	0
Operations	25,000	25,000	0	25,000
Transportation	519,761	519,761	9,998	529,759
Parks & Recreation	677,960	677,960	0	677,960
Community Development	0	0	0	0
Community & Cultural Services	166,000	166,000	0	166,000
Public Works	2,548,052	2,548,052	0	2,548,052
Legislative Reserve	0	0	0	0
Operating Transfers Out	0	0	0	0
Total Expenditures	\$ 3,936,773	3,936,773	9,998	3,946,771
Accrual Adjustments	0	0	0	0
ENDING BALANCE	\$ 279,052	279,052	0	279,052



Date

Jul 26, 2016

AVIATION GRANT AGREEMENT

Project Location

LRU - LAS CRUCES INTERNATIONAL AIRPORT

Sponsor

LAS CRUCES, CITY OF

Address

PO BOX 20000

City

LAS CRUCES

NM

Zip Code

88004

The Sponsor must print and mail (3) three copies all with original signatures to:

**NMDOT - AVIATION DIVISION
PO BOX 9830
ALBUQUERQUE, NM 87119**

Participation

STATE ONLY

Funding Breakdown

90-10

Contract No. _____

Project No.

LRU-17-01

Vendor No.

0000054342-2

Expiration Date

Purchase Order No: _____

AVIATION GRANT AGREEMENT

This Agreement is between the New Mexico Department of Transportation, acting through its Aviation Division (Department), and the Sponsor. This Agreement is effective as of the date of the last party to sign on the signature page below.

Now Therefore, pursuant to the New Mexico Aviation Act, NMSA 1978, Section 64-1-11 et seq., and the New Mexico Municipal Airport Law, NMSA 1978 Sections 3-39-1 et seq., the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide funding, authorized in Section 64-1-13, NMSA 1978, to the Sponsor to assist in financing an aviation project.

a. Project Description:

Annual Maintenance Grant

b. Site of Development. The site of development is identified on the property map, attached as Exhibit A.

c. Funding. Below is the funding for the Project. The State's contribution is the maximum amount that the Department will contribute. Attached as Exhibit B is the engineer's cost estimate.

	State	Sponsor	Other	Total	
\$	9,998	\$	1,111	\$	11,109

2. The Sponsor Shall:

- a. Pay all costs, perform all labor, and supply all material, except as described in the Engineers Estimate attached as EXHIBIT B.
- b. Provide a representative from its organization who shall serve as the single point of contact for the Department.
- c. Establish and maintain a resolution by which the Sponsor agrees to establish an airport maintenance program and appoint an individual to be responsible for management of the program.
- d. Initiate engineering, survey, and all other design activities, inspect Project construction and, coordinate all meetings.
- e. Be responsible for all design and pre-construction activities.
- f. Initiate and cause to be prepared all necessary documents including plans, specifications, estimates (PS&E), and reports for this Project.
- g. Assure that all design and PS&E are performed under the direct supervision of a Registered New Mexico Professional Engineer.
- h. Design the Project in accordance with State and Federal guidelines and/or advisory circulars, hereby incorporated into this Agreement. Construction projects will be accomplished in accordance with the Federal Aviation Administration's Standards for Specifying Construction of Airports (Advisory Circular 150/5370-10, current edition).

- i. Notify the Department when the plans and specifications are sufficiently complete for review.
- j. Make no changes in design or scope of work without documented approval of the Department.
- k. Advertise for and contract for the construction of the Project in accordance with federal and state laws or local ordinances.
- l. Require the Engineer to prepare a final detailed estimate of the work, indicating the bid items, the quantity in each item, the unit bid price and cost of the items based on low acceptable bid prices. Progress estimates shall be submitted to the Department in acceptable form so that details of quantities allowed on various items of work shall be shown on each progress payment.
- m. The Sponsor shall submit to the Department one complete set of plans and specifications which incorporate all comments and recommendations received during pre-bid activities and which have been fully executed by all involved parties.
- n. The Sponsor shall take all steps, including litigation if necessary, to recover State funds spent in violation of state laws and rules. The Sponsor shall return any recovered state funds to the Department. It shall furnish to the Department, upon request, all documents and records pertaining to the determination of the amount of the state's share of any settlement, litigation, negotiation, or the efforts taken to recover such funds. All settlements or other final dispositions by the Sponsor, in court or otherwise, involving the recovery of such state funds shall be approved in advance by the Department.
- o. The Sponsor shall, upon reasonable notice, allow the Department the right to inspect the Project for the purposes of determining if it is being constructed in a good and workmanlike manner, and if the approved plans and specifications are being complied with satisfactorily. If an inspection discloses a failure to substantially meet such requirements and standards the Department may terminate payment or payments until a mutually satisfactory remedy is reached.

3. The Department Shall:

- a. Assign a contact person for this project.
- b. Provide timely reviews of all submittals of scopes, plans, specifications, investigations or other documents.
- c. The Department shall not provide an extensive check of any plans submitted by the Sponsor. The Department's concurrence of the Project plans does not relieve the Sponsor or its Consultant of their responsibility for errors and omissions.

4. Both Parties Agree:

- a. The allowable costs of this Project shall not include costs determined by the Department to be ineligible for consideration under the Aviation Act.
- b. The expenditure of any State money is subject to approval by the Department.
- c. Funds granted under the Local Governments Road Fund, NMSA 1978 Section 67-3-28.2, shall not be used to administer this Project or used to meet the local match.

5. Method of Payment - Reimbursement.

The Department shall reimburse the Sponsor in accordance with the terms of this agreement. Claims for reimbursement shall be completed on form A-1159, Request for Reimbursement. Each request for reimbursement shall contain proof of payment for valid expenditures for services rendered by a third party or items of tangible property received by the Sponsor for the implementation of the Project. The Department reserves the right to withhold reimbursement on requests that are incorrect and/or incomplete. The Final reimbursement request must be received no later than thirty (30) days after completion of the project or the expiration of this Agreement.

The Sponsor shall not be reimbursed for any costs incurred prior to the full execution of the Agreement, after the expiration of the Agreement or in excess of the maximum dollar amount of the agreement unless the maximum dollar amount is duly amended prior to incurring the service or deliverable. Any unexpended portion of funds subject to this Agreement shall revert to the State Aviation Fund.

6. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements. The Sponsor shall maintain all records and documents relative to the Project for a minimum of three (3) years after completion of said Project. The Sponsor shall furnish the Department or State Auditor, upon demand, all records which support the terms of this Agreement.

7. Term.

The Agreement becomes effective upon signatures of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This agreement shall expire two (2) years from the effective date, unless terminated pursuant to Sections 8 and 17, below.

8. Termination for Cause.

The Department has the option to terminate this Agreement if the Sponsor fails to comply with any provision of this Agreement. A written notice of termination shall be given at least thirty (30) days prior to the intended date of termination and shall identify all of the Sponsor's breaches on which the termination is based.

The Department may provide the Sponsor a reasonable opportunity to correct the breach. If within ten (10) days after receipt of a written notice of termination, the Sponsor has not corrected the breach or, in the case of a breach which cannot be corrected in ten (10) days, the Sponsor has not begun and proceeded in good faith to correct the breach, the Department may declare the Sponsor in default and terminate the Agreement. The Department shall retain any and all other remedies available to it under the law.

By such termination neither party may nullify obligations already incurred for performance or failure to perform for the work rendered prior to the date of termination. However, neither party shall have any obligation to perform services or make payment for services rendered after such date of termination.

9. Disposition of Property.

- a. Upon termination of this Agreement, the Sponsor shall account for any remaining property, materials or equipment belonging to the Department and dispose of them as directed by the Department.
- b. Any equipment, materials or supplies procured under this Agreement shall be used solely for aviation purposes maintained according to the manufacturers guidelines and stored at the airport.

10. Representations and Certification.

The Sponsor, by signing this Agreement, represents and certifies the following:

- a. Legal Authority - The Sponsor has the legal power and authority to: (1) do all things necessary in order to undertake and carry out the Project in conformity with the provisions stated in the New Mexico Aviation Act and Rules and Regulations pursuant thereto; (2) accept, receive and disburse grant funds from the State of New Mexico in aid of the Project; and (3) carry out all provisions stated in this Aviation Grant Agreement.
- b. Defaults - The Sponsor is not in default on any obligation to the State of New Mexico relative to the development, operation or maintenance of any airport or aviation project.
- c. Possible Disabilities - The Sponsor states, by execution of this Agreement, there are no facts or circumstance (including the existence of effective or proposed leases, use agreements, or other legal instruments affecting use of the airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project.
- d. Land - The Sponsor holds the property interest in the areas of land which are to be developed or used as part of or in connection with the Project and is identified in a current Airport Property Map. The Sponsor further certifies that the aforementioned is based on a title examination by a qualified attorney or title company who has determined that the Sponsor holds the stated property interests.

11. Assurances.

The Sponsor, by signing this Agreement, covenants and agrees to the following Assurances:

- a. That it will operate the airport for the use and benefit of the public on fair and reasonable terms and without unjust discrimination.
- b. That it will keep the airport open to all types, kinds and classes of aeronautical use without discrimination between such types, kinds, and classes. The Sponsor shall establish fair, equal and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation.

- c. Neither it nor any person or organization occupying space at the airport will discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of the facility and, further that any person, firm or corporation rendering service to the public on the airport will do so on a fair, equal and not unjustly discriminatory basis.
- d. Operate and maintain in a safe and serviceable condition the airport and all facilities which are necessary to serve the aeronautical users and will not permit any activity which would interfere with its use for airport purposes.
- e. By acquisition of land interest, acquisition of easements, airspace zoning, or other accepted means, protect the runway approaches and the airspace in the immediate vicinity of the airport from the construction, alteration, erection or growth of any structure which would interfere with the use or operation of the airport.
- f. That an airport facility that receives funds under the Aviation Act shall not charge landing fees for aircraft, except for aircraft used in commercial activities for compensation.
- g. Comply with the New Mexico Aviation Act and associated provisions, NMSA 1978 Sections 64-1-1 to 64-5-4 and the New Mexico Municipal Airport Law, NMSA 1978 Sections 3-39-1 et seq.
- h. That it shall not award the contract nor give bidding documents to any contractor who is subject to suspension or debarment by the U.S. Department of Transportation or the Department at the time of the bidding or award of the contract. Violation of this provision shall void this Agreement.

12. Third Party Beneficiaries.

It is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

13. New Mexico Tort Claims Act.

As between the Department and the Sponsor, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq.* This paragraph is intended only to define the liabilities between the parties and it is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act.

14. Scope of Agreement.

This Agreement incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this written Agreement. No prior Agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

15. Terms of this Agreement.

The terms of this Agreement are lawful; performance of all duties and obligations shall conform with and do not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

16. Equal Opportunity Compliance.

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States shall, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

In witness whereof, each party is signing this Agreement on the date stated opposite of that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____
Cabinet Secretary or Designee

Date: _____

Recommended by:

By: _____
Aviation Division Director
or Designee

Date: _____

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: _____
Assistant General Counsel

Date: _____

SPONSOR

APPROVED AS TO FORM:



CITY ATTORNEY

Print Name: Daniel Avila, P.E.

By:  _____

Date: 8/8/16

Title: Interim City Manager, City of Las Cruces